



MURIEL GOODE-TRUFANT
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

Maxim Maiello
Assistant Corporation Counsel
Phone: (212) 356-2082
Email: mamaiell@law.nyc.gov

January 2, 2025

VIA ECF

Honorable John P. Cronan
United States District Court Judge
United States District Court, Southern District of N.Y.
500 Pearl Street
New York, NY 10007

The parties shall appear before the Court for a telephonic conference today, January 3, 2025, at 3:00 p.m. At the scheduled time, counsel for all parties should call (855) 244-8681, access code 23027552307.

SO ORDERED
January 3, 2025
New York, New York

JOHN P. CRONAN
United States District Court

Re: Donohue et al v. Banks et al
Case No: 22-cv-08998-JPC

Dear Judge Cronan:

This office represents Defendants New York City Department of Education (the “Department”), its former Chancellor, David C. Banks, and Brad Lander, the Comptroller of the City of New York (collectively “Defendants”) in the above-referenced action brought under the Individuals with Disabilities Education Act. I write to request a brief adjournment of the hearing presently scheduled for January 7, 2025 (ECF 128).

As background, at the December 3, 2024 Conference, the Court directed Plaintiffs to submit the unredacted session notes on or before December 17, 2024 (ECF entered 12/6/24). The Court directed the parties to submit a joint proposed protective order by December 17, 2024, and the parties complied (ECF 125-127).

Plaintiffs mailed a flash drive of the unredacted session notes to counsel at the Law Department on December 18, 2024. For an unknown reason, counsel did not receive the mailing as of December 23, 2024 (also contacting his mail room to clarify any receipt or issue, which was not successful). The mailing was received as of Monday December 30, 2024, and there is no ability to confirm the date of actual receipt.

The Department was closed on December 24, 25, and 31 as well as January 1. Additionally, the attorney liaison at the Department, who is most familiar with the facts of this case and the records, recently suffered the death of an immediate family member and will be out for some portion of the remaining days prior to the January 7 hearing for review, but is out for at least January 2, 3 and 6. The liaison may be out on January 7 as well, as funeral arrangements are currently being finalized. As the Department has expressed previously, the session notes are voluminous, and having been unredacted will require extensive review. The assigned liaison is best suited to conduct this review and is unexpectedly out of office.

Based on the delay of receipt, holiday closures, and the Department liaison’s loss, the Defendants respectfully request an adjournment from January 7 to January 28 for the hearing of iBrain Director Arthur Mielnik, or an alternative date accommodating the Court’s and Mr. Mielnik’s schedules.

No previous request for an adjournment of the hearing has been made. Plaintiffs decline consent to the adjournment, and their position is detailed below. Defendants respectfully submit they could not have anticipated the delay of receipt or loss of a family member and apologize for not raising the holiday closures at the prior conference.

Plaintiffs' Position

As stated by Defendants' Counsel, the Plaintiffs have not consented to the requested adjournment of the hearing scheduled for January 7, 2025.

Defendants first emailed Plaintiffs regarding an adjournment on December 30, 2024, but are requesting an adjournment from the Court today, January 2, 2025, in the late afternoon for the first time. The reasons for the Defendants' request in their December 30 email were essentially the same. However, there was no mention of the death of a family member of the attorney liaison at the Department.

Concerning the delivery of the flash drives, on December 17, 2024, a law clerk from the Plaintiffs' law firm hand-delivered a flash drive to the federal courthouse in the late afternoon. A second flash drive was mailed to Defendants' counsel the next morning, December 18. The law department received the flash drive on December 19, 2024, as the tracking information below demonstrates.

Plaintiffs have been preparing for the upcoming hearing, and as explained to Defendants' counsel on December 30, 2024, they were not willing to consent to the adjournment because they did not know when counsel would be requesting the adjournment or if the adjournment would be granted, and needed to continue to prepare.

With respect to the Defendants' request, because the Department was closed for the holidays, this information was presumably known to counsel when the Court originally scheduled the hearing—and yet, the first time counsel raised this as a concern with Plaintiffs was on December 30, and with the Court today.

Plaintiffs do not consent to an adjournment of the hearing but will be guided by the Court.

Tracking Number:

4201000726019405530109355077066906

 Copy  Add to Informed Delivery

Latest Update

Your item was picked up at a postal facility at 10:59 am on December 19, 2024 in NEW YORK, NY 10007.

Get More Out of USPS Tracking:

 USPS Tracking Plus®

Delivered

Delivered, Individual Picked Up at Postal Facility
NEW YORK, NY 10007
December 19, 2024, 10:59 am

Out for Delivery

NEW YORK, NY 10007
December 19, 2024, 7:35 am

Arrived at Post Office

NEW YORK, NY 10007
December 19, 2024, 7:25 am

Arrived at USPS Regional Facility

NEW YORK NY DISTRIBUTION CENTER
December 19, 2024, 4:00 am

Accepted at USPS Regional Facility

NEW YORK NY DISTRIBUTION CENTER
December 19, 2024, 3:00 am

Shipping Label Created, USPS Awaiting Item

NEW YORK, NY 10128
December 18, 2024, 11:00 am

Hide Tracking History

[What Do USPS Tracking Statuses Mean?](#)

Thank you for your consideration in this matter.

Very truly yours,

/s/ Maxim Maiello

Maxim Maiello
Assistant Corporation Counsel

cc: Rory Bellantoni, Esq. (via ECF)